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14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
16 **EASTERN DIVISION – RIVERSIDE**

17 BLUETRITON BRANDS, INC.,

18 Plaintiff,

19 v.

20 UNITED STATES FOREST SERVICE, *et*  
21 *al.*,

22 Defendants.

2:24-cv-09720-JGB-DTB

**DEFENDANTS’  
SUPPLEMENTAL BRIEF  
IN OPPOSITION TO  
PLAINTIFF’S MOTION  
FOR PRELIMINARY  
INJUNCTION**

1 In accordance with this Court’s December 20, 2024 order, Defendants  
2 provide this supplemental brief on: (1) differences in Ninth Circuit caselaw and (2)  
3 factual developments regarding Plaintiff BlueTriton Brands, Inc.’s pipeline since  
4 the close of briefing.

5 First, in deciding motions for preliminary relief, courts in the Ninth Circuit  
6 apply the *Winter* test as described in Defendants’ Opposition brief, ECF No. 15 at  
7 10-11. A preliminary injunction is “a drastic and extraordinary remedy, which  
8 should not be granted as a matter of course,” *Monsanto Co. v. Geertson Seed*  
9 *Farms*, 561 U.S. 139, 165 (2010), but is reserved for when the movant makes “a  
10 clear showing” warranting relief. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S.  
11 7, 22 (2008). In seeking a preliminary injunction, the movant must show that “(1)  
12 it is likely to succeed on the merits; (2) it is likely to suffer irreparable harm if the  
13 preliminary injunction is not granted; (3) the balance of equities tips in its favor;  
14 and (4) an injunction is in the public’s interest.” *Conservation Cong. v. U.S.*  
15 *Forest Serv.*, 720 F.3d 1048, 1054 (9th Cir. 2013) (citing *Winter*, 555 U.S. at 20,  
16 22). Or in the Ninth Circuit, ““serious questions going to the merits’ and a  
17 hardship balance that tips sharply toward the plaintiff can support issuance of an  
18 injunction, assuming the other two elements of the *Winter* test are also met.” *All.*  
19 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011). This is not a  
20 significant difference; under either test, the Plaintiff must “make a showing on all  
21 four prongs.” *Id.* at 1135.

22 Second, there have been no significant factual developments since the close  
23 of briefing on BlueTriton’s motion for a preliminary injunction. The Forest  
24 Service is reviewing BlueTriton’s plan to decommission and remove the pipeline.  
25 While that review is still in progress, the Forest Service has already concluded that  
26 some revisions will be necessary before the Forest Service can approve the plan  
27

1 and BlueTriton can implement removal. The Forest Service estimates that plan  
2 review will take several months—and involve consistent communication with  
3 BlueTriton—and so removal of the pipeline is not imminent and the final decision  
4 will not come as a surprise. But even after the Forest Service approves a final  
5 removal plan, the Forest Service will provide at least 30 days’ notice to the Parties  
6 and Court before ordering BlueTriton to implement the plan and remove the  
7 pipeline.

8 Submitted this 8th day of January, 2025,

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